

Jeffrey M. Edelson, OSB # 880407
JeffEdelson@MarkowitzHerbold.com
Nathan D. Burcham, OSB #182509
NathanBurcham@MarkowitzHerbold.com
MARKOWITZ HERBOLD PC
1455 SW Broadway, Suite 1900
Portland, OR 97201
Tel: (503) 295-3085
Fax: (503) 323-9105

Kelly K. Simon, OSB # 154213
ksimon@aclu-or.org
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF OREGON
PO Box 40585
Portland, OR 97240
Tel: (503) 227-6928

Nicholas S. Cady, OSB # 113463
nick@cascwild.org
CASCADIA WILDLANDS
PO Box 10455
Eugene, OR 97440
Tel: (541) 434-1463
Fax: (541) 434-6494

Elisabeth Holmes, OSB # 120254
eli@willametteriverkeeper.org
WILLAMETTE RIVERKEEPER
PO Box 293
Eugene, OR 97440
Tel: (541) 870-7722

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

NORTHWEST CENTER FOR
ALTERNATIVES TO PESTICIDES,
WILLAMETTE RIVERKEEPER,
CASCADIA WILDLANDS, NEIGHBORS
FOR CLEAN AIR, AND 350PDX,

Plaintiffs,

vs.

U.S. DEPARTMENT OF HOMELAND
SECURITY; CHAD WOLF, in his capacity
as Acting Secretary, U.S. Department of
Homeland Security,

Defendants.

No. 3:20-cv-01816

**STANDING DECLARATION OF
MARY PEVETO, EXECUTIVE
DIRECTOR OF NEIGHBORS
FOR CLEAN AIR**

I, Mary Peveto, declare and state as follows:

1. I am over 18 years of age and make this declaration based on my own personal knowledge. If called as a witness, I would and could competently testify to the facts herein under oath. As to matters which may reflect a matter of opinion, they reflect my personal opinion and judgment based on my personal experience.

2. I co-founded Neighbors for Clean Air as a 501(c)(3) Oregon nonprofit in 2010, committing countless hours over the last decade in the work to protect Oregon's air quality through community education and organizing. I currently lead the organization as its Executive Director.

3. Neighbors for Clean Air advocates for better air quality in Oregon with an emphasis on public health, and empowers Oregonians with information and tools to ensure everyone breathes clean air. Over the past five years, we've led a community-based coalition in advocating for health-based reform of Oregon's air toxics regulations--resulting in the Cleaner Air Oregon program--and worked with local governments in the Portland Metro Region to establish Clean Diesel Contracting standards for all publicly funded construction activity.

4. As the only environmental group in Oregon explicitly focused on air quality, we also do a lot of public education on air pollution in Oregon and policy options to clean up the state's air. The organization has been fielding questions regarding the toxicity of different types of tear gas and their impact on human health throughout the protests in the wake of George Floyd's death.

5. Neighbors for Clean Air has approximately four thousand members and supporters. We have three staff members. Neighbors for Clean Air's principal place of business is at 1524 NW 23rd Ave, Suite B in Portland, Oregon.

6. I live in downtown Portland, in what is known as "Old Town," 2.5 miles from the Multnomah County Courthouse.

7. I have participated in protests, rallies, and other forms of political protest in Portland this year.

8. Throughout the late spring and summer, in the wake of George Floyd's death, I participated in multiple protests supporting Black Lives Matter.

9. On Wednesday July 29, I made plans to join three friends at the protest in front of the Multnomah County Justice Center to support the Black Lives Matter movement, and protest the escalating acts of violence that federal troops were enacting under the guise of protecting federal property. We arranged to meet at 8:15pm at the Salmon Street Fountain on SW Naito Parkway.

10. I left my home walking and arrived at the fountain by 8pm, and walked around to look at the pictures that had been hung in the space. It was a very pleasant evening. There were a lot of people in the area gathered. My friends arrived at around 8:47pm and we walked together west on Salmon Street and turned left on 3rd Avenue where we joined a larger crowd, standing in the area in front of the Multnomah County Building, adjacent to the federal building, to listen to the speakers. One speaker was City Commissioner JoAnn Hardesty, who gave a very heartfelt personal story about her meeting Congressman John Lewis, who had recently passed away.

11. Within a few minutes, as I approached the corner near the park, I began to feel a very itchy sensation in my throat. I was wearing a mask, as were all other visible people around me. I remember how quickly my throat felt irritated, because I was conscious of not wanting to remove my mask to cough, as myself and others in the crowd were clearly following strict guidance for preventing Covid-19 exposure. My eyes began to water within about 20 minutes, and I became increasingly uncomfortable, with intermittent coughing fits. But I was really enjoying the speakers, and I felt it was very important to be there, to stand in solidarity with the speakers and the community.

12. I was standing in the peaceful crowd listening to the speakers. I was there to peacefully support Black Lives Matter, and made sure to avoid the Federal Courthouse where protesters were in direct confrontation with federal officers. But increasingly my throat became uncomfortably constricted. The coughing was pretty constant, I started to feel some difficulty breathing. While I had a mask on for purposes of reducing my potential spreading of Covid-19 virus, I was not equipped with PPE or the type of mask that would protect me from chemical

inhalants. Between 10:15-10:30pm, I felt too uncomfortable to stay any longer and told my friends I was going to head home.

13. I have no history of asthma or other respiratory issues and I was scared about how hard it was to breathe. I was astounded at how just the residual tear gas dust from previous tear gas activity in the area was enough to trigger such an acute reaction.

14. I started walking and grabbed a BikeTown Share bike at SW Naito and rode home. I texted one of the friends that I had met with, letting her know I had arrived home at 10:51pm. My friend responded at 11:17pm that “U left in the nick of time.” Apparently just after I left the area for peaceful speakers, federal agents started deploying tear gas where we had gathered.

15. I did some research on my reactions, and figured out it must be from the gas, but I was left with more questions than answers. It seems there are several types of gas that can be used on crowds, and I had no idea what the federal agents had been used on me and the other people peacefully gathered. This left me feeling very anxious in addition to my physical symptoms, and worried for other people who were also exposed to the gas by the federal agents.

16. As the Executive Director of an organization dedicated to protecting the public from air pollution, I was doubly worried about the chemicals involved and the effects they could be having on public health and the environment. I have also been concerned with how to address our membership’s questions about the federal agents’ use of tear gas.

17. I have not returned to that area, because of the intense concentration of use of tear gas over multiple days/weeks and which still continues. I have attended rallies in other parts of the city and felt no symptoms similar to what I first experienced on July 29th.

18. I believe that the lack of information and analysis by the federal government about the repeated use of tear gas and other aerosols created conditions in which numerous adverse health impacts, including my own, and those to other members of the public, were able to occur.

19. If the federal government completes a NEPA analysis of the use of tear gas and other crowd control weapons on human health and the environment, I believe they may make

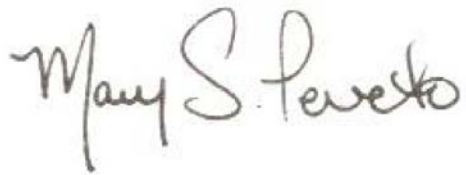
better, more informed choices about their use of such weapons. I believe they may have decided and may not decide in the future to deploy these gases and in such quantities that myself and my friends and loved ones have experienced.

20. I have definite plans to continue to exercise my first amendment rights and engage in protests for social justice in Portland.

21. Neighbors for Clean Air has had to dedicate organization time and resources to this matter, and will continue to do so, including retaining counsel to represent its interests in this litigation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of October, 2020.

A handwritten signature in dark ink, reading "Mary S. Peveto". The signature is written in a cursive, flowing style.

Mary Peveto